

**UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA**

AGA MEDICAL CORPORATION,

Plaintiff,

v.

W.L. GORE & ASSOCIATES, INC.,

Defendant.

)
) Civil 10-3734 (JNE/JSM)
)
)
) **DECLARATION OF**
) **LESLIE B. PRILL IN SUPPORT**
) **OF GORE’S RESPONSE TO**
) **AGA’S MOTION TO EXCLUDE**
) **TESTIMONY REGARDING**
) **MANIPULATIONS OF ASO**
) **DEVICES BY DR. ALEX JAVOIS**
) **AND DR. ROBERT GORMAN**
)

I, Leslie B. Prill, declare as follows:

1. I am an attorney with the law firm of Faegre Baker Daniels LLP and counsel for Defendant W.L. Gore & Associates, Inc. (“Gore”) in the above-referenced matter. I submit this declaration in support of Gore’s Response to AGA’s Motion to Exclude Testimony Regarding Manipulations of ASO Devices by Dr. Alex Javois and Dr. Robert Gorman.

2. On December 19, 2012, I was present at the offices of Carlson, Caspers, Vandenburg, Lindquist & Schuman, in Minneapolis, Minnesota during Dr. Alex Javois and Dr. Robert Gorman’s inspection of three ASO prototype devices. Also present during the inspection were AGA’s expert witness, Dr. Charles Mullins, and AGA’s counsel, including Marlee Jansen, R.J. Zayed, and Tara Norgard. Dr. Mullins and Ms. Jansen were in the room during the entire inspection; Mr. Zayed and Ms. Norgard were present for portions of the inspection. Counsel for Gore was also present, including Nina Wang, Kate

Razavi, and Andrew McCoy. A photographer, Mike Ehlen, was also present. A photograph taken during this inspection is included at pages 6 and 21 of Gore's Response.

3. Attached hereto as **Exhibit A** are true and correct copies of labels and brochures for the Amplatzer Septal Occluder Device, bates-numbered documents AGA_GORE0000277, AGA_GORE0000278, AGA_GORE0000279, AGA_GORE_0000284, AGA_GORE0084554-55, AGA_GORE0051449-50, and AGA_GORE0052058-59.

4. Attached hereto as **Exhibit B** is a true and correct copy of email correspondence between R.J. Zayed and Nina Wang dated December 4, 2012.

5. Attached hereto as **Exhibit C** (FILED UNDER SEAL) is a true and correct copy of the parties' December 14, 2012 Joint Status Report.

6. Attached hereto as **Exhibit D** is a true and correct copy of a December 31, 2012 letter from Shelley Meyer to Jonathan McNeil enclosing and serving Gore's document production containing bates-numbered documents WLG01962239-WLG01962299. These bates-numbered documents are the photographs taken during Dr. Alex Javois and Dr. Robert Gorman's December 19, 2012 ASO prototype inspection.

7. Attached hereto as **Exhibit E** (FILED UNDER SEAL) are true and correct copies of sixty-one photographs taken during Dr. Alex Javois and Dr. Robert Gorman's December 19, 2012 ASO prototype inspection bates-numbered WLG01962239-WLG01962299.

8. Attached hereto as **Exhibit F** is a true and correct copy of a January 3, 2013 letter from Nina Wang to Marlee Jansen.

9. Attached hereto as **Exhibit G** is a true and correct copy of chapters 28 and 29 of the book *Cardiac Catheterization in Congenital Heart Disease* written by Dr. Charles E. Mullins and published by Blackwell Publishing in 2006.

10. Attached hereto as **Exhibit H** (FILED UNDER SEAL) is a true and correct copy of excerpts from the March 6, 2013 deposition transcript of Kaushik Bhattacharya (designated as Confidential-Outside Attorneys' Eyes Only).

11. Attached hereto as **Exhibit I** (FILED UNDER SEAL) is a true and correct copy of an excerpt from the February 15, 2013 Expert Report of Professor Charles E. Mullins (designated as Confidential-Outside Attorneys' Eyes Only by AGA).

12. Attached hereto as **Exhibit J** (FILED UNDER SEAL) is a true and correct copy of an excerpt from the Noninfringement Expert Report of Dr. Robert Gorman (designated as Confidential-Outside Attorneys' Eyes Only).

13. Attached hereto as **Exhibit K** (FILED UNDER SEAL) is a true and correct copy an excerpt from the March 13, 2013 deposition transcript of Robert C. Gorman (containing pages designated as Highly Confidential).

I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge and belief.

Dated: May 1, 2013

/s/ Leslie B. Prill
Leslie B. Prill